

AMENDED IN SENATE MARCH 16, 2004

**SENATE BILL**

**No. 1333**

**Introduced by Senator Perata**

February 18, 2004

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An act to add Section ~~14105.32~~ 120956 to the Health and Safety Code, ~~relating to Medi-Cal~~, and to add Section 14105.75 to the Welfare and Institutions Code, relating to prescription drugs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1333, as amended, Perata. ~~Medi-Cal: drug contracts: lowest price~~ Prescription drug reimbursement: pharmacy purchases from Canadian sources: Medi-Cal: AIDS Drug Assistance program.

**Existing**

(1) Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care services, including prescription drugs. Existing law authorizes the department to enter into contracts with manufacturers of drugs on a bid or nonbid basis and requires the department to maintain a list of those drugs for which contracts have been executed. Existing law requires that contracts executed pursuant to this provision be for the manufacturer's best price. Existing law defines "best price" as the negotiated price, or the manufacturer's lowest price available to any class of trade organization or entity, including, but not limited to, wholesalers, retailers, hospitals, repackagers, providers, or governmental entities within the United States, that contracts with a manufacturer for a specified price for drugs, inclusive of cash discounts, free goods, volume discounts, rebates, and on- or off-invoice discounts or credits.

~~This bill would require, notwithstanding any other provision of law, that the department negotiate contracts with drug manufacturers for purposes of the Medi-Cal program that result in drug prices that are the same as or less than the lowest price given to any federal, state, or local government.~~

*Existing law provides that any pharmacy located outside of this state that delivers, in any manner, controlled substances, dangerous drugs, or dangerous devices into this state is considered a nonresident pharmacy and requires a nonresident pharmacy to register with the California State Board of Pharmacy and comply with all lawful directions of and requests for information from the state in which it is a resident.*

*Existing federal law requires any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug that is imported or offered for import into the United States to register with the federal Secretary of Health and Human Services, report a list of each drug introduced for commercial distribution, and provide required information and statements.*

*This bill would authorize, notwithstanding any other provision of law, the department to reimburse a pharmacy that provides to a Medi-Cal beneficiary a prescription drug that was purchased from a Canadian pharmacy. This bill would provide that reimbursement for that prescription drug may be in an amount up to an established percentage less than the most recent allowable drug product price, not to exceed 50% of the difference between the purchase price from the Canadian pharmacy and the purchase price the pharmacy would have paid to a pharmaceutical wholesaler.*

*(2) Existing law requires the Director of Health Services, to the extent that state and federal funds are appropriated in the Budget Act for this purpose, to establish a program, known as the AIDS Drug Assistance program (ADAP) to provide drug treatments to persons infected with human immunodeficiency virus (HIV). Existing law requires the director to establish a rate structure for reimbursement for the cost of each drug included in the program and requires that the rates be established at not less than the actual cost of the drug. Existing law requires the director to develop, maintain, and update a list of drugs provided under the program and authorizes the director to purchase a listed drug directly from the manufacturer and negotiate the most favorable bulk price for that drug.*

*This bill would authorize, notwithstanding any other provision of law, the department to reimburse, in the same manner described in (2) above, a pharmacy that has provided to a person eligible for benefits under ADAP a prescription drug that was purchased from a Canadian pharmacy.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 14105.32 is added to the Welfare and~~  
2     ~~Institutions Code, to read:~~  
3     ~~14105.32. Notwithstanding any other provision of law, for~~  
4     ~~purposes of this chapter the department shall negotiate contracts~~  
5     ~~with the manufacturers of drugs that result in drug prices that are~~  
6     ~~the same as or less than the lowest price given to any federal, state,~~  
7     ~~or local government.~~  
8     SECTION 1. Section 120956 is added to the Health and Safety  
9     Code, to read:  
10    120956. (a) Notwithstanding any other provision of law, the  
11    department may reimburse a pharmacy that provides to a person  
12    eligible for benefits under this chapter a prescription drug that was  
13    purchased from a Canadian pharmacy, and shall reimburse that  
14    pharmacy for those prescription drugs pursuant to this section.  
15    (b) The reimbursement rate for a prescription drug described  
16    in subdivision (a) may be up to, but not exceeding, \_\_\_\_\_ percent  
17    less than the most recent allowable drug product price, but in no  
18    case shall this reduced reimbursement rate be more than 50  
19    percent of the difference between the purchase price from the  
20    Canadian pharmacy and the purchase price the pharmacy would  
21    have paid to a pharmaceutical wholesaler.  
22    (c) Notwithstanding any other provision, a drug shall not be  
23    eligible for reimbursement under this section if the department  
24    finds that the drug price, after rebates from the drug's  
25    manufacturer, is the same as or lower than the lowest available  
26    Canadian price for the same drug.  
27    (d) In order for a pharmacy to be reimbursed pursuant to this  
28    section, the Canadian pharmacy from which it purchases a  
29    prescription drug shall meet the requirements for a nonresident  
30    pharmacy as specified in Section 4112 of the Business and

1 *Professions Code, as appropriate, and comply with all lawful*  
2 *directions and licensing and registration requirements of the*  
3 *applicable Canadian regulatory and licensing agency or agencies.*

4 *(e) A pharmacy shall not be subject to any adverse action under*  
5 *state law solely because the pharmacy acted in accordance with*  
6 *this section.*

7 *SEC. 2. Section 14105.75 is added to the Welfare and*  
8 *Institutions Code, to read:*

9 *14105.75. (a) Notwithstanding any other provision of law,*  
10 *the department may reimburse a pharmacy that provides a*  
11 *prescription drug that was purchased from a Canadian pharmacy*  
12 *to a Medi-Cal beneficiary, and shall reimburse that pharmacy for*  
13 *those prescription drugs pursuant to this section.*

14 *(b) The reimbursement rate for a prescription drug described*  
15 *in subdivision (a) may be up to, but not exceeding, \_\_\_\_ percent*  
16 *less than the most recent allowable drug product price, but in no*  
17 *case shall this reduced reimbursement rate be more than 50*  
18 *percent of the difference between the purchase price from the*  
19 *Canadian pharmacy and the purchase price the pharmacy would*  
20 *have paid to a pharmaceutical wholesaler.*

21 *(c) Notwithstanding any other provision, a drug shall not be*  
22 *eligible for reimbursement under this section if the department*  
23 *finds that the drug price, after rebates from the drug's*  
24 *manufacturer, is the same as or lower than the lowest available*  
25 *Canadian price for the same drug.*

26 *(d) In order for a pharmacy to be reimbursed pursuant to this*  
27 *section, the Canadian pharmacy from which it purchases a*  
28 *prescription drug shall meet the requirements for a nonresident*  
29 *pharmacy as specified in Section 4112 of the Business and*  
30 *Professions Code, as appropriate, and comply with all lawful*  
31 *directions and licensing and registration requirements of the*  
32 *applicable Canadian regulatory and licensing agency or agencies.*

33 *(e) A pharmacy shall not be subject to any adverse action under*  
34 *state law solely because the pharmacy acted in accordance with*  
35 *this section.*